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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/409,330	09/30/1999	JASON T. CASSEZZA	INTL-0268-US	5219

7590

10/14/2005

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EXAMINER
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LUU, SY D

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**Technology Center 2100**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/409,330  
Filing Date: September 30, 1999  
Appellant(s): CASSEZZA, JASON T.

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Timothy N. Trop  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed July 25, 2005 appealing from the Office action mailed April 6, 2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2003-0310.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

This appeal involves claims 27-38.

Claims 1-26 have been canceled.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,191,620      Lee      3-1993

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 27-38, 30, 31-32, 34, 35-36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US # 5,191,620).

As per claims 27 and 30, Lee teaches a method of controlling volume levels in a processor-based system comprising: automatically generating a plurality of sounds of progressively

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changing/increasing volume, receiving a user selection of a desired volume level, and using said user selection to control the volume of sounds generated by said processor-based system (figs. 3A-3A'; col. 2, lines 32-34 and 37-38).

As per claim 28, Lee teaches the step of correlating the time period when a user selection is received to the volume of the sound being generated at the time the user selection was received (fig. 2; *step 19*) and recording that volume level as a preset sound level (fig. 2; *steps 14 and 17*; col. 2, lines 30 et seq.).

Claims 31-32, and 34 are similar in scope to claims 27-28 and 30 respectively, and are therefore rejected under similar rationale.

Claim 35 is similar in scope to claim 27, and is therefore rejected under similar rationale. Lee further teaches a remote control unit to receive user inputs (fig. 1; col. 2, lines 28-29; *transmitter 1*)

Claims 36 and 38 are similar in scope to claims 28 and 30 respectively, and are therefore rejected under similar rationale.

#### **(10) Response to Argument**

In re page 11, Applicant argues that the teaching of Lee, as cited in the final rejection at figures 3A-A' and column 2, lines 32-34 and 37-38, has nothing to do with the claimed step of generating a plurality of sounds of progressively changing/increasing volume

In response, the Examiner maintains the position that the claim language are still read on by the citations. A thorough examination of the relevant citations would indicate that Lee does teach an instant, where as the user inputs the up-signal continuously (*i.e. the input-key for the up-signal being initiated repeatedly, particularly at column 2, lines 35-37*), a plurality of sound

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*KL* volume<sup>s</sup><sub>A</sub> would be progressively generated as being changed/increased (*i.e. audible sounds to the user would be heard in increasing volume; this process would also be visually depicted in figures 3A-A' where the bars reflecting the increased volume level is shown as cited in column 2, lines 40-47*).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



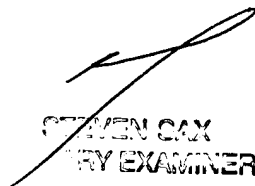
Sy D. Luu, Primary Patent Examiner

October 12, 2005

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Steven P Sax, Primary Patent Examiner



STEVEN SAX  
PRIMARY EXAMINER

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